

1 TYLER M. PAETKAU, Bar No. 146305  
MICHAEL G. PEDHIRNEY, Bar No. 233164  
2 LITTLER MENDELSON  
A Professional Corporation  
3 650 California Street, 20th Floor  
San Francisco, CA 94108.2693  
4 Telephone: 415.433.1940  
tpaetkau@littler.com, mpedhirney@littler.com

5 Attorneys for Defendant  
6 APPLERA CORPORATION

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
11

12 MEGAN KELLY,  
13 Plaintiff,  
14 v.  
15 APPLERA CORPORATION,  
16 Defendant.

Case No. C-07-3002 MMC (EMC)

**DECLARATION OF TYLER PAETKAU IN  
SUPPORT OF DEFENDANT APPLERA  
CORPORATION'S OPPOSITION TO  
PLAINTIFF'S MOTION TO AMEND  
COMPLAINT**

Date: April 4, 2008  
Time: 9:00 a.m.  
Courtroom: 7, 19<sup>th</sup> Floor  
Judge: Hon. Maxine Chesney

17  
18  
19  
20 I, Tyler M. Paetkau, declare:

21 1. I am an attorney with the law firm of Littler Mendelson, P.C., counsel of record for  
22 Defendant Applera Corporation ("Applera") in this action. I have personal knowledge of the matters  
23 stated in this declaration by virtue of my representation of Applera in this action. I could and would  
24 competently testify to the following facts if called as a witness. I make this declaration in support of  
25 Applera's Opposition to Plaintiff Megan Kelly's Motion to Amend her Complaint scheduled for  
26 hearing on April 4, 2008.

27 2. Attached as Exhibit 1 is a true and correct copy of Plaintiff's Complaint for Damages,  
28 filed on April 23, 2007.

1           3.       Attached as Exhibit 2 is a true and correct copy of the Answer by Defendant Applera  
2 Corporation to Plaintiff's Unverified Complaint, filed on June 7, 2007.

3           4.       Attached as Exhibit 3 is a true and correct copy of the December 22, 2006 letter from  
4 Maureen McFadden to the Administrator/HR Client Services of Applera Corporation, which  
5 Plaintiff produced in response to Applera's First Request for Production of Documents.

6           5.       Attached as Exhibit 4 is a true and correct copy of the February 13, 2007 letter from  
7 Josef Maier, MSPA-C to "To Whom It May Concern," which Applera subpoenaed from Plaintiff's  
8 health care providers.

9           6.       Attached as Exhibit 5 is a true and correct copy of the February 23, 2007 letter from  
10 Maureen McFadden to Veronica Jones of Applera.

11          7.       Attached as Exhibit 6 is a true and correct copy of the March 6, 2007 letter from  
12 Charles J. Heinzer, Applera's corporate counsel, to Maureen McFadden, which Plaintiff produced in  
13 response to Applera's First Request for Production of Documents.

14          8.       Attached as Exhibit 7 is a true and correct copy of the March 28, 2007 letter from  
15 Charles J. Heinzer to Maureen McFadden, which Plaintiff produced in response to Applera's First  
16 Request for Production of Documents.

17          9.       Attached as Exhibits 8-12 are true and correct copies of faxes from Attorney  
18 McFadden to Ms. Jones of Applera, which Plaintiff produced in response to Applera's First Request  
19 for Production of Documents.

20          10.      Attached as Exhibit 13 is a true and correct copy of the April 25, 2007 letter from Dr.  
21 Barry Rose to Plaintiff Megan Kelly, which Plaintiff produced in response to Applera's First  
22 Request for Production of Documents.

23          11.      Attached as Exhibit 14 is a true and correct of the May 9, 2007 letter from Dr. Barry  
24 Rose to Plaintiff Megan Kelly, which Plaintiff produced in response to Applera's First Request for  
25 Production of Documents.

26          12.      Attached as Exhibit 15 is a true and correct copy of the May 24, 2007 letter from  
27 Dr. Barry Rose to Plaintiff Megan Kelly, which Plaintiff produced in response to Applera's First  
28 Request for Production of Documents.

2.

1 13. Attached as Exhibit 16 is a true and correct copy of the May 25, 2007 letter from  
2 Azuka Nwigwe, DPT to "To Whom it May Concern," which Plaintiff produced in response to  
3 Applera's First Request for Production of Documents.

4 14. Attached as Exhibit 17 is a true and correct copy of the May 31, 2007 letter from Dr.  
5 Barry Rose to "To Whom It May Concern," which Plaintiff produced in response to Applera's First  
6 Request for Production of Documents.

7 15. Attached as Exhibit 18 are true and correct copies of relevant excerpts from Plaintiff  
8 Megan Kelly's February 11, 2008 deposition.

9 16. In my eighteen years of practice, it has consistently been my experience and my  
10 understanding that the Department of Fair Employment and Housing issues "Right-to-Sue" Notices  
11 immediately, or very shortly after, a complaining party makes a request for such notice, and that  
12 complainants are free to request a "Right-to-Sue" notice at any time, including at the very outset of  
13 their complaints.

14 17. Plaintiff did not comply with any of the requirements of Civil Local Rule 16-2(d) to  
15 obtain relief from the Court's September 14, 2007 Case Management Schedule.

16 I declare under penalty of perjury under the laws of the State of California and the United  
17 States of America that the foregoing is true and correct and that I executed this declaration on this  
18 14th day of March 2008 at San Francisco, California.

19  
20 

21 Tyler M. Paetkau

22  
23 Firmwide:84590684.1 008292.1051